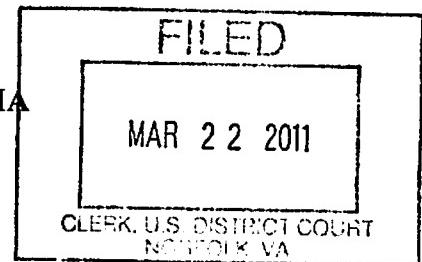


UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Norfolk Division



WILLIAM E. JONES, JR., #189783,

Petitioner,

v.

ACTION NO. 2:10cv444

HAROLD W. CLARKE,
Director of the Virginia
Department of Corrections, et al.,

Respondents.

FINAL ORDER

Petitioner, a Virginia inmate, filed a pro se petition, pursuant to 28 U.S.C. § 2254 on May 28, 2010 (Action No. 2:10cv255). The petition alleges the Virginia Department of Corrections Court and Legal Unit miscalculated his revocation sentence and refused to manually calculate his sentence. Respondent filed a Motion to Dismiss the petition on September 3, 2010.

On September 8, 2010, Petitioner filed a document entitled "Petition for Writ of Mandamus." The typed document was originally filed in the Circuit Court for the City of Richmond, and includes the handwritten notation "See Exhibit O" at the top. The document has been conditionally filed in this Court as a new petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254 with the Action Number 2:10cv444.

On October 8, 2010, Petitioner was ordered to inform the Court whether the "Petition for Writ of Mandamus" was intended to be a new petition for writ of habeas corpus, or was intended to be an exhibit to the original 28 U.S.C. § 2254 habeas corpus petition filed May 28, 2010. Petitioner responded to the order on November 9, 2010, explaining "that the Petition for Writ of

Mandamus filed September 8, 2010 was NOT intended to be a new petition for writ of habeas corpus, but was intended be (sic) used as an exhibit only (Exhibit O)."

The petition was referred to a United States Magistrate Judge pursuant to the provisions of 28 U.S.C. § 636(b)(1)(B) and (C) and Local Civil Rule 72 of the Rules of the United States District Court for the Eastern District of Virginia for report and recommendation. The Magistrate Judge's Report and Recommendation filed February 11, 2011, recommends dismissal of the petition. The Court has received no objections to the Report and Recommendation and the time for filing objections has expired.

The Court does hereby accept the findings and recommendations set forth in the Report and Recommendation filed February 11, 2011, and it is therefore ORDERED that the petition be DENIED and DISMISSED.

Petitioner may appeal from the judgment entered pursuant to this Final Order by filing a written notice of appeal with the Clerk of this court, United States Courthouse, 600 Granby Street, Norfolk, Virginia 23510, within thirty days from the date of entry of such judgment.

Petitioner has failed to demonstrate "a substantial showing of the denial of a constitutional right," therefore, the Court declines to issue any certificate of appealability pursuant to Rule 22(b) of the Federal Rules of Appellate Procedure. See Miller-El v. Cockrell, 123 S.Ct. 1029, 1039 (2003).

The Clerk shall mail a copy of this Final Order to Petitioner and to counsel of record for Respondent.

JM

/s/ _____
Jerome B. Friedman
Senior United States District Judge
UNITED STATES DISTRICT JUDGE

Norfolk, Virginia
March 21, 2011